

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

TOWN OF THORNAPPLE, WISCONSIN; ANGELA JOHNSON, RALPH C. KENYON, TOM ZELM, and JACK ZUPAN, in their official capacities as Town Clerk and Town Board Supervisors of the Town of Thornapple; TOWN OF LAWRENCE, WISCONSIN; CHARIDY LUDESCHER, BOB NAWROCKI, STACY ZIMMER, and DUANE BILLER, in their official capacities as Town Clerk and Town Board Supervisors of the Town of Lawrence; and STATE OF WISCONSIN,

Defendants.

Civil Case No. 3:24-cv-664

**UNITED STATES’
MOTION FOR A PRELIMINARY
INJUNCTION**

MOTION FOR A PRELIMINARY INJUNCTION

Plaintiff United States of America (“United States”), pursuant to Rule 65 of the Federal Rules of Civil Procedure, moves for entry of a preliminary injunction to remedy violations of the requirements of Section 301 of the Help America Vote Act of 2002 (“HAVA”), 52 U.S.C. § 21081. On September 20, 2024, the United States filed a complaint in this Court alleging violations of HAVA arising from the failure of the Town of Thornapple (“Thornapple”), Thornapple Town Clerk Angela Johnson, and Town Board Supervisors of the Town of Thornapple Ralph C. Kenyon, Tom Zelm, and Jack Zupan (collectively, “Thornapple Defendants”), to ensure that each voting system used in an election for federal office in Thornapple “be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and

participation (including privacy and independence) as for other voters.” 52 U.S.C.

§ 21081(a)(3)(A). Specifically, the Thornapple Defendants violated HAVA by failing to make available “at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place.” *Id.* § 21081(a)(3)(B).

In support of its motion, the United States asserts that (1) it is substantially likely to prevail on the merits of its HAVA claim, (2) unless enjoined, the Thornapple Defendants’ continued noncompliance with Section 301 of HAVA will irreparably harm voters with disabilities, (3) the United States’ interest in protecting the rights of voters with disabilities outweighs any burden imposed on the Thornapple Defendants, and (4) enjoining the Thornapple Defendants’ failure to comply with Section 301 of HAVA will serve the public interest.

The basis for the United States’ motion is set forth in the accompanying Memorandum of Law in Support of the United States’ Motion for a Preliminary Injunction and the Proposed Statement of Record Facts in Support of the United States’ Motion for a Preliminary Injunction, as well as supporting declarations. A proposed order also accompanies this filing.

In accordance with this Court’s Procedure to be Followed on Motions for Injunctive Relief, through counsel Richard Lawson, the United States has provided actual and immediate notice to the Thornapple Defendants of the filing of this Motion for Preliminary Injunction and will provide actual and immediate notice of the date for any hearing scheduled.¹ In addition, the United States is promptly serving counsel for the Thornapple Defendants with copies of all materials filed with the Court.

Respectfully submitted,

¹ Though the United States seeks a preliminary injunction against Thornapple Defendants only, the United States has also provided actual and immediate notice to the State of Wisconsin through counsel Charlotte Gibson and is promptly serving the State with copies of all materials filed with this Court. The United States will provide the State of Wisconsin with actual and immediate notice for the date of any hearing scheduled.

Date: September 20, 2024

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